

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

ALTANA PHARMA AG and WYETH,  Plaintiffs,  v.  TEVA PHARMACEUTICALS USA, INC., et al.,  Defendants.	Civil Action No. 04-2355 (JLL)  <b>ORDER</b>
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**LINARES**, District Judge.

This matter comes before the Court by way of Plaintiffs' motion for partial summary judgment seeking dismissal of Defendants' affirmative defense of *per se* patent misuse, as well as its "bundling" defense [Docket Entry No. 1121], and Defendants' motion for summary judgment seeking a ruling that the patent-in-suit is unenforceable due to Plaintiffs' patent misuse [Docket Entry No. 1137]. Based on the reasons set forth in the Court's corresponding Opinion dated March 26, 2013, which has been filed under seal,

**IT IS** on this 26<sup>th</sup> day of March, 2013,

**ORDERED** that Plaintiffs' motion for partial summary judgment seeking dismissal of Defendants' affirmative defense of *per se* patent misuse, as well as its "bundling" defense [Docket Entry No. 1121] is **granted**; and it is further

**ORDERED** that Defendants' motion for summary judgment seeking a ruling that the patent-in-suit is unenforceable due to Plaintiffs' patent misuse [Docket Entry No. 1137] is **denied**.

  
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Jose L. Linares  
United States District Judge